

<b>POLICE/SHERIFF'S DEPARTMENT</b>	<b>GENERAL ORDERS</b>
<b>SUBJECT: Traffic Enforcement</b>	<b>NUMBER: 2-19</b>
<b>EFFECTIVE DATE: July 1, 1999</b>	<b>REVIEW DATE:</b>
<b>AMENDS/SUPERSEDES: GO 2-19, June 1988</b>	<b>APPROVED: _____ Chief of Police/Sheriff</b>
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## **NOTE**

This order is for internal use only, and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third-party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

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## **INDEX WORDS**

Checkpoints  
 DUI  
 Enforcement; traffic  
 Escorts  
 Juveniles; traffic violations by  
 Radar  
 Roadblocks  
 Search and seizure (of vehicles)  
 Traffic  
 Traffic stops - felony  
 Traffic stops - routine  
 Virginia Uniform Summons

## **I. POLICY**

Traffic law enforcement involves all activities or operations which relate to observing, detecting, and preventing traffic law violations and taking appropriate action under the circumstances. Enforcement not only involves arrests and citations, but includes warnings to drivers and pedestrians to prevent them from committing minor violations. Traffic enforcement may react to observed violations, at accidents, or in response to community concerns, or may be proactive to prevent traffic violations. However, overzealous enforcement without considering whether the violator is familiar with the legal requirements or without regard for the circumstances surrounding the violation causes disrespect for the

law and poor relations between the department and the community. The emphasis of an officer's traffic enforcement is placed on violations that contribute to accidents and that prevent hazards to vehicular and pedestrian traffic.

## **II. PURPOSE**

The purpose of this order is to prescribe procedures for traffic law enforcement, preventive patrol, proactive enforcement, and relationships with motorists, pedestrians, and the courts.

## **III. PROCEDURES**

### **A. General**

Officers shall enforce the same laws consistently under similar circumstances. Before taking any enforcement, officers must consider the circumstances of the law violation and decide on a course of action which relies on experience, training, and judgment. Further, traffic laws shall be enforced without regard to race, sex, nationality, location of the operator's residence, or the nature of the vehicle (type, model, whether commercially or privately operated).

### **B. Types of enforcement actions**

#### **1. Warnings**

Officers may issue warnings to a violator whenever a minor traffic infraction is committed in areas where traffic accidents are minimal, or when the act may be due to ignorance of a local ordinance which may be a unique violation or a violation of which the driver may not be aware. In their discretion, officers must recognize that a properly administered warning can be more effective than any other type of enforcement.

#### **2. Virginia Uniform Summons (VUS)**

A VUS shall be issued to a violator who jeopardizes the safe and efficient flow of vehicular and pedestrian traffic, including hazardous moving violations or operating unsafe and improperly equipped vehicles.

#### **3. Physical arrest**

In compliance with *Virginia Code* § 46.2-940, officers shall make a physical arrest and take the violator before a magistrate when the officer believes that

- a. the violator has committed a felony; or
- b. the violator is likely to disregard the summons issued under § 46.2-936 (arrest for misdemeanors); or

- c. the violator refuses to give a written promise to appear under §§ 46.2-936 and -945 (issuance of citations).

C. Handling special categories of violators

1. Non-residents

Officers may consider use of warnings for non-residents who commit minor, non-hazardous violations. If appropriate, officers may arrest non-residents by issuance of a summons. If the circumstances of § 46.2-940 obtain, officers shall take non-resident violators directly before a magistrate.

2. Juveniles

Juvenile traffic offenders are prosecuted in Juvenile and Domestic Relations Court and that shall be so noted on the summons. Officers issuing a traffic summons to juvenile offenders shall advise them of their options regarding prepayment or court appearance and that a parent or guardian must accompany them when they appear before the court.

3. Foreign diplomatic or other consular officials

- a. Diplomatic immunity is granted by the United States Government. Generally, immunity may apply to diplomats, members of their families, and employees of diplomatic missions concerning acts performed in the course of their official duties.
- b. Different levels of immunity exist. The burden is on the diplomat to claim immunity and show the appropriate U.S. State Department-issued credentials. Refer to GO 2-04 (arrests), section IX.B for further guidance.

4. The lieutenant governor and members of the General Assembly

During the session of the General Assembly and for five days before and after the session, the lieutenant governor, members of the General Assembly, the clerks, the clerks' full-time assistants, and the sergeants-at-arms of the Senate and House of Delegates shall be privileged from custodial arrest for most traffic offenses. They are not immune from misdemeanor or felony arrests. *Virginia Code* §§ 30-6, 30-7, and 18.2-8 apply.

5. Military personnel

Military personnel who are passing through the town/county may be treated as non-residents or, if from this area, as residents.

6. Members of Congress

- a. Members of Congress may not be detained for the issuance of a summons while they are in transit to or from the Congress of the United States.
- b. If a member of Congress is stopped for a traffic infraction, upon presentation of valid credentials, he or she shall be released immediately. The officer may then obtain a summons for the member of Congress covering the observed violation and make arrangements to serve the summons at a time when the member of Congress is not in transit to or from Congress or on official business.

D. Information regarding traffic summons

The VUS shall be completed whenever a motorist is to be charged with a motor vehicle violation. Officers shall advise drivers of the following:

1. The court appearance schedule.
2. Whether the court appearance by the motorist is mandatory.
3. Whether the motorist may be allowed to pay the fine before court and enter a guilty plea.
4. Answer the motorist's questions about the summons as thoroughly as possible.

**IV. UNIFORM ENFORCEMENT POLICIES FOR TRAFFIC LAW VIOLATIONS**

A. Speed violations

Officers shall clearly demonstrate the violator's speed in court by competently explaining the method of measuring the violator's speed and the circumstances. Appropriate speed may depend on the location of violation. For example, speeding may have occurred through a congested area, downtown, or a school zone.

B. Other hazardous violations

Be able to articulate the degree of hazard in a particular location which justified the issuance of a summons. The hazard may be based on the previous accident history of location with a current directed patrol emphasis.

C. Equipment violations

With only annual inspections required of vehicles, summonses may be issued for any essential equipment defects.

D. Public carrier/commercial vehicle violations

In issuing a summons, consider traffic congestion, lack of parking, and carrier needs for delivery access. Repetitive violators shall be cited.

E. Multiple violations

Officers may issue summonses for all appropriate violations. In the event of multiple violations, officers may issue a summons for the most serious violation and warn on others. Avoid issuing multiple summonses only because the violator is argumentative.

F. Newly-enacted laws

The law usually does not provide for a grace period when new laws take effect. Officers, though, may use discretion in observing a reasonable grace period before issuing a summons for the following:

1. A violation of a newly enacted traffic law.
2. Speeding violations in an area which the speed limit has been reduced.
3. Expired state license tags or expired state inspection stickers for approximately one week after their expiration.

G. Inspections

Officers may stop any motor vehicle or trailer to inspect its equipment, operation, serial or engine numbers, or any property-carrying motor vehicle or trailer to inspect its contents or load (§§ 46.2-103 and -104 apply). These stops shall be used judiciously and reasonably.

**V. TRAFFIC LAW ENFORCEMENT PRACTICES - General**

A. Normal traffic enforcement involves patrol by officers who observe and handle traffic violations during the performance of their duties.

1. Area patrol involves traffic enforcement within the officer's assigned area of responsibility.
2. Line patrol involves traffic enforcement with concentration on a particular section of roadway.

3. Directed patrol instructions can specify enforcement in an area, on a line patrol, or at a specific location, depending on the nature of the hazard/violation.
4. Stationary observation, either covert or overt, may be used as a technique to make observations about the flow of traffic at a particular location.
5. Officers are encouraged, when completing reports or doing other activities which will keep them out of service for a short while, to park their patrol vehicles in a conspicuous location where the mere presence of the vehicle will serve to remind other drivers to comply with traffic laws.

B. Objectives of traffic stops

1. The two primary objectives of any traffic stop are
  - a. to take proper and appropriate enforcement action; and
  - b. to favorably alter the violator's future driving behavior.
2. Achievement of these objectives requires the officer to evaluate the violator's mental and physical condition when assessing the facts of the violation itself. In achieving these objectives, officers must exhibit flexibility to minimize conflict or argument with the violator.

C. Traffic violator/officer relations

1. Rules to be followed in all traffic stops:
  - a. Be alert at all times for the unexpected.
  - b. Be absolutely certain that the observations of the traffic violation were accurate.
  - c. Present a professional image in dress, grooming, language, bearing, and emotional stability.
  - d. Be prepared for the contact by having the necessary equipment and forms immediately available.
  - e. Decide on the appropriate enforcement action based upon the violator's driving behavior, not attitude. In most cases, decide on the formal enforcement action before contacting the violator. Exceptions include stopping an out-of-state driver who has committed a violation that would not be a violation in his jurisdiction, such as making a

right turn on a red light. The officer may then decide to issue a warning rather than a citation.

2. Before making a vehicle stop:
  - a. Maintain a reasonable distance between the violator and the patrol vehicle.
  - b. Locate a safe spot to stop the vehicle.
  - c. Activate the emergency lights and, when necessary, the siren to signal the vehicle to stop.
  - d. Advise the dispatcher of the intention to stop the particular vehicle, and give the following information:
    - (1) The location of the stop.
    - (2) The vehicle's license tag number and a description when necessary.
  - e. The officer shall position the patrol vehicle approximately one-half to one car length behind the violator's vehicle. The patrol vehicle shall be positioned so that it will offer the officer some protection from oncoming traffic. This position shall be two feet outside and to the left of the violator's vehicle. This position provides maximum safety to the violator, the officer, and all other traffic.
3. Additionally, when stopping a vehicle in which the occupant(s) is (are) deemed to present a hazard to the officer's safety, perform the following actions.
  - a. Request a backup unit and calculate the stop so that the backup unit is in the immediate area before making the actual stop;
  - b. Train the unit's auxiliary lights (spotlight) on the occupant(s) of the vehicle when applicable;
  - c. When necessary use the vehicle's public address system to give instructions to the occupant(s) of the violator's vehicle.
4. Hazards
  - a. On multi-lane roadways, the officer shall insure the safety of the violator during the lane changes by gradually changing from lane to lane with the violator until the right side of the roadway is reached.

- b. Should the violator stop abruptly in the wrong lane or in another undesirable location, the officer shall direct him or her to move to a safer location. Officers shall use the public address system to instruct violators to move to a safer location. If the officer's oral directions and gestures are misunderstood, the officer shall quickly leave the patrol vehicle and instruct the violator.
- c. At night, officers shall exercise caution in selecting an appropriate place for the traffic stop. Once the violator has stopped, to maximize officer safety, use the spotlight and set the head lights for high-beam, and employ emergency bar lights and emergency flashers.

5. Approaching the violator

The following steps in stopping and approaching a traffic violator are intended to provide maximum safety for the officer, the violator, and other users of the roadway. Varying conditions regarding the engineering of the particular traffic way, the urgency to stop the violator (drinking driver), and the existing volume of traffic may require adjusting or altering the recommended procedure. Follow these procedures unless circumstances dictate another reasonable method.

- a. The officer shall leave the patrol vehicle and be continuously alert for any suspicious movement or actions on the part of the violator or other occupants in the violator's vehicle.
- b. The officer shall approach from the rear of the violator's car, look into its rear seat, and stop behind the trailing edge of the left front door. This position shall be maintained if there are only occupants in the front seat of the vehicle. From this position, the officer can communicate with the violator, keeping him in a slightly awkward position and at the same time keep all occupants of the vehicle in view.
- c. In cases where the violator's car has occupants in both the front and rear seats, the officer shall approach to the trailing edge of the left front door, alert for any unusual actions on the part of the occupants and choosing a path so the door cannot be used as a weapon against the officer. From this position, the officer can communicate with the violator and keep all occupants in view.
- d. In traffic stops made by two-officer patrol vehicles, the passenger officer shall handle all radio communications, write all notes, and act as an observer and cover for his or her fellow officer. At no time



shall the two officers approach the violator together along the same side of the violator's vehicle.

6. Communicating with the violator

In transacting business with the violator, the officer shall observe the following rules.

- a. Greet the violator courteously with an appropriate title.
- b. Inform the violator what traffic law he or she has violated and the intended enforcement action (do not keep the violator in suspense).
- c. Ask for and accept only the violator's driver license and vehicle registration. If the driver offers money, the officer shall refuse it and advise the driver of the illegality of the offer.
- d. If the driver has no driver's license, obtain another document of identification.
- e. Allow the driver to discuss the violation. Do not argue, berate, belittle, or otherwise orally abuse the violator.
- f. Complete the forms required for the enforcement action or administer an oral warning, if appropriate.
- g. Explain to the violator exactly what he or she is supposed to do in response to the action taken and how this action will affect him or her.
- h. If the enforcement action requires a court appearance, make sure the violator knows where and when to appear. Explain any alternatives to the violator, but do not predict the actions of the court.
- i. Be alert to any emotional stress exhibited by the driver. If stress is present, the instructions may have to be repeated or the violator may need to calm down before resuming driving.

7. Conducting the transaction

- a. Return the violator's driver's license, registration, and a copy of the warning, if given.
- b. Release the defendant after he or she
  - (1) signs the summons, and

(2) receives a copy of the summons.

c. Assist the violator in safely re-entering the traffic flow.

d. Do not follow the violator.

D. Stopping a known or suspected felon

1. Special procedures shall be used in vehicle stops when the occupants are reasonably believed to be armed and dangerous. When an officer locates a vehicle driven by a known or suspected felon, the officer shall notify the dispatcher immediately of the suspect's location and give a thorough description of the vehicle and its occupants. The officer shall keep the suspect vehicle in view and request sufficient assistance in making the stop.
2. The officer shall keep support units informed of the suspect's location and direction of travel to aid their approach with minimal use of emergency equipment. The suspect vehicle shall not be stopped unless absolutely necessary until adequate support is available and in position. Circumstances may, however, dictate a one-officer felony vehicle stop.
3. The following procedures shall be used in effecting the stop:
  - a. The officer shall plan to stop the suspect vehicle in a location which presents minimal danger to other citizens.
  - b. When conditions are appropriate and support units available, the officer shall move into position to the rear of the suspect vehicle.
  - c. The officer shall signal the violator to stop, using all emergency equipment to warn other traffic.
  - d. The violator shall be stopped on the extreme right side of the road.
  - e. If the violator is known to be armed and dangerous, the officer shall have his weapon easily accessible and ready for immediate use.
  - f. When the suspect vehicle begins to stop, the officer shall turn off the siren and turn on the public address system.
  - g. The officer shall park the patrol vehicle so that it provides maximum protection and cover.
  - h. At night, the officer shall focus all lights on the interior of the suspect vehicle.

- i. The officer shall leave the patrol vehicle quickly but remain behind the door and accessible to the public address system microphone.
- j. The officer making the stop is in command and shall direct each occupant, using the public address system, to get out of the vehicle and into the appropriate search position. First, once suspects are stopped, the officer shall order the driver to shut off the motor and drop the keys on the ground outside his door. Next, the officer shall order occupants to place their hands, palms up, on the ceiling of the vehicle. Officers shall then order occupants to exit the vehicle on the driver's side only, one at a time. Occupants shall then be ordered to lie face down on the ground.
- k. If a public address system is not available, the officer shall give voice commands if they can be heard; if this fails, the officer should consider that the commands have been heard but ignored. Consistent with training, the officer shall consider other options before leaving a position of cover. ***[Note: The tactics described for high-risk vehicle stops should be consistent with the methods taught in training courses.]***
- l. To reduce confusion, the officer shall instruct support officers, as appropriate, and shall be the only officer to direct the suspects.
- m. The support officers shall cover the arresting officer and remain on the curb side of the vehicle until all occupants are in the search position.
- n. Officers shall exercise extreme caution not to get within each other's line of fire.
- o. When all occupants have been removed from the vehicle, the support officers shall move to cover the arresting officer while the suspects are searched.
- p. Arrestees shall be searched and handcuffed before transportation.

E. Persons charged with revoked/suspended operator's license

The VUS shall be issued when an officer has stopped a motorist who is driving with a revoked or suspended operator's license (§ 46.2-301). An officer who sees a person driving who is known to be under suspension or revocation may swear out a warrant if unable to stop the violator.

F. Speed enforcement

Excessive speed is a major cause of death and injury on the national highways. Officers shall uniformly enforce speed laws within *[your jurisdiction]*. Procedures for the enforcement of laws applying to speed will vary in accordance with the type of equipment used.

1. Pacing

The officer shall follow the vehicle being paced at a constant interval for a distance adequate, normally two or more city blocks, to obtain a speedometer reading. Speedometers shall be calibrated at least every six months and calibration filed with the clerks of the district and juvenile courts.

2. Radar

Radar shall not be used for "filler" or "slack" officer time, but shall be applied where vehicle speed is a hazard to other motorists or pedestrians. The following guidelines govern the use of radar, which shall always be operated in compliance with manufacturer's instructions. All departmental radar units meet current NHTSA standards.

- a. The radar unit must be properly installed in the vehicle and connected to the appropriate power supply.
- b. Operators must thoroughly understand the effective range of the radar unit so observations can support the speed meter readings.
- c. The operator must choose an appropriate location in accordance with the directions of his commanding officer relative to traffic accident experience in which speed has been identified as a contributing cause. The location must also be conducive to the effective and safe operation of radar.
- d. The radar unit shall be calibrated to ensure accuracy in checking speed. The operator must follow the manufacturer's recommended specific methods of checking calibration without exception. Officers shall report promptly any problems with the operation of radar units.
- e. In court, officers must establish the following elements of radar speed:
  - (1) The time, place, and location of the vehicle, the identity of the operator, the speed of the vehicle, and the visual and radar speed check;
  - (2) The officer's qualifications and training in the use of radar;

- (3) Proper operation of the radar unit;
  - (4) Proof that the unit was tested for accuracy before and after use by an approved method;
  - (5) Identification of the vehicle;
  - (6) The speed limit where the officer was operating and where the signs were posted.
- f. The chief of police/sheriff is responsible for the upkeep, maintenance, and calibration of radar units, maintenance of records, and that appropriate certificates are filed with the clerks of district and juvenile courts.

## **VI. DUI ENFORCEMENT PROCEDURES**

### **A. Laws**

It is unlawful for any person to drive or operate any motor vehicle, engine, or train while under the influence of alcohol or while under the influence of any narcotic drug of any nature. The term motor vehicle includes pedal bicycles with helper motors (Mopeds), while operated on the public highways (§§ 18.2-268.1 to -268.12).

### **B. Responsibilities**

Officers shall be alert for suspected DUI offenders. Officers shall use and document standardized roadside sobriety tests. In addition, the portable alco-sensor, if available, shall be offered to each suspected driver. Officers must carefully document the behavior of the DUI beginning with observations of driving. Once the violator has been stopped, then the officer shall note the suspect's appearance, responses to stimuli, speech, admissions of drinking, or drug ingestion.

### **C. Breathalyzer**

1. The security, care, and maintenance of the breathalyzer and all physical evidence obtained from it is every officer's responsibility.
2. The regulations of the Department of Criminal Justice Services Division of Forensic Science require that the breathalyzer be stored in a clean, dry location which is only accessible to an authorized licensee (defined in the DUI statutes listed above) for the purpose of administering a breath test, preventative maintenance check, or other official uses.

3. The breathalyzer is located at *[name location]*.

D. Sobriety tests

1. Officers shall administer a minimum of three field sobriety tests from the following list. The list names the most commonly administered tests.
  - a. Gaze nystagmus (only if properly certified).
  - b. Walk and turn.
  - c. One-leg stand.
  - d. Reciting of alphabet.
  - e. 10 count.
  - f. Nose find.
  - g. Coin lift.

Officers may employ additional tests, but they must be performed in the same order and manner every time.

2. If the operator fails the roadside tests, an alco-sensor shall be offered if available (§ 18.2-267). The operator may refuse the alco-sensor test, and shall be advised of his/her right to refuse.
3. At the officer's discretion or if the operator fails the alco-sensor test, he/she shall be arrested for DUI and taken before the magistrate.

(Note: The alco-sensor shall be used only on suspected DUI offenders.)

4. If an officer suspects that the vehicle operator was driving under the influence of both alcohol and drugs, or drugs alone, he may require the operator to have a blood test performed **in addition to** testing for alcohol. Blood samples shall be analyzed by the Division of Forensic Science for evidence of alcohol and for various illegal, prescription, and over-the-counter drugs.
5. The officer shall make a full written report of the circumstances of the DUI arrest, formation of probable cause, and witnesses' observations.

E. Arrest

The arresting officer shall perform the following:

1. Advise the arrestee that any person, whether or not licensed by Virginia, who operates a motor vehicle in this state gives implied consent to have a sample of his blood or breath taken for a chemical test to determine the alcoholic content of this blood or for the presence of drugs if such person is arrested for violation of §§ 18.2-266 and -266.1.

2. If the arrest occurs as a result of operation of a motor vehicle on private property, the Implied Consent Law (§ 18.2-268.2) does not apply. Although it does not apply, the officer shall try to obtain consent from the arrested person to submit to a chemical analysis of the suspect's blood or breath. Officers requesting blood or breath samples under these conditions are conducting a custodial interrogation. Therefore, the arrested subject shall be advised of his or her *Miranda* warnings before consent is requested. The officer shall make all reasonable attempts to obtain a blood or breath sample.
  - a. *Miranda* is not required before the driver takes sobriety tests, or otherwise before questioning.
3. Advise the arrestee that he or she may elect to have either a breath or blood sample taken, when available, but not both unless the officer suspects the presence of drugs. It is not a matter of defense for the driver in court that neither test was available.
4. If the arrestee refuses the available test, advise him or her that unreasonable refusal of the test constitutes grounds for the revocation of the driver's license and that a separate charge shall be placed to which he or she will have to answer in court.
5. If he or she still refuses, the arrestee shall be advised of the Implied Consent Statute and penalties by the magistrate. If the arrestee refuses to sign a declaration of refusal which shall be presented to the arrestee at this point, then the magistrate may sign the form certifying the refusal.

F. Blood test procedure

1. Take the arrested person to a physician, registered professional nurse, graduate laboratory technician, or other technician designated by order of the circuit court acting upon recommendation of a licensed physician, who shall withdraw blood for the purpose of determining its alcoholic content and drugs (§ 18.2-268.5 applies).
2. The arresting officer shall also witness the doctor or technician taking the blood sample and ensure that an alcohol solvent is not used to cleanse the withdrawal location. The officer shall initial the vial labels (on two vials) before the doctor or technician seals the vials in their containers. The initial shall be placed on the label where it does not interfere with the date written by the doctor or technician who took the blood sample (§ 18.2-268.6 applies).

- a. The medical person taking the sample shall place his or her name and the name of the accused on the label of each vial with the date and time the blood was taken.
- b. The arresting officer shall take possession of the two vials and seal them in two containers designed to hold them. The officer shall, before the end of the tour of duty, mail one vial to the Division of Forensic Science.

The arresting officer shall further perform the following:

- (1) Place the name of the arrested person, officer's name, date and time of arrest on the blue container.
- (2) Mail the other container to the laboratory selected by the accused, if the accused so directs. If the accused does not recommend disposition of the sample at this time, the officer shall keep the sample in the department refrigerator for up to 72 hours.
- (3) Destroy the container if no such direction is received in writing within 72 hours.

G. Breath analysis

1. Chemical analysis of a person's breath shall be performed by anyone possessing a valid license, issued by the Division of Forensic Science. This may include the arresting officer or anyone participating in the arrest. In the event the breathalyzer is inoperable or a licensed operator is not available, this test is deemed not available.
2. The type of equipment and the methods used to perform breath analysis shall accord with the regulations of the Division of Forensic Science.
3. The testing officer shall issue a certificate of breath alcohol analysis which indicates that the test was conducted per the manufacturers' specifications, the equipment on which the test was conducted has been tested in the last six months and was found to be accurate, the name of the accused, the date, the time the sample was taken from the accused, the alcohol content of the sample, and by whom the sample was examined.

H. Accident investigation

If the DUI suspect has been involved in a traffic accident, officers shall also undertake the following:



1. Identify any witnesses who saw the suspect operating a motor vehicle.
2. Question the witness about the suspect's condition, actions, and statements immediately after the accident.
3. Establish a time lapse from the time of the accident to the time of arrest.
4. Question the witnesses and the suspect about what, if anything, the suspect ingested between the time of the accident and the officer's arrival.

## **VII. SPECIAL TRAFFIC PROBLEMS**

### **A. Identification and referral of driver recommended for reexamination to the Department of Motor Vehicles (DMV)**

During routine traffic law enforcement activities, officers frequently encounter persons whom they suspect of being incompetent, physically or mentally disabled, or having other conditions that might prevent the person from exercising reasonable and ordinary care over a motor vehicle. In all such cases, in addition to whatever enforcement he or she may take, the officer shall notify DMV of these findings or suspicions, giving the violator's full name, date of birth, operator license number, and a brief description of the disability noted. A driver deficiency report may be used for this purpose.

### **B. Pedestrian and bicycle safety**

1. The chief of police/sheriff shall review the traffic accident records at least annually to determine what enforcement actions are needed to provide a proactive pedestrian/bicycle safety enforcement program. The chief/sheriff may recommend to officers enforcement measures including steps to:
  - a. Reduce or eliminate human environmental factors leading to accidents.
  - b. Reduce or eliminate the behavior, decisions, and events that lead to the accidents.

### **C. Off-road vehicles (including dirt bikes, snowmobiles, and mopeds)**

1. Accidents involving off-road vehicles that do not occur on a public highway do not require a traffic accident report. If the responding officer finds it convenient, he or she may complete an accident report and attach it to the offense report.

2. Any officer observing an unlicensed off-road vehicle on the highways that cannot be operated legally on public highways shall order it removed and enforce appropriate laws.
3. Officers shall enforce compliance with vehicle registration laws as they pertain to off-road vehicles.
4. Officers shall enforce laws, rules, and regulations concerning the operation of off-road vehicles on public-owned trails, parks, or property.

## **VIII. ESCORTS**

### **A. General rules**

1. Officers shall not provide emergency or non-emergency escorts for private vehicles. If a medical emergency exists, then an ambulance should be summoned.
2. Officers may provide escorts of vehicles with oversize or hazardous loads. These escort duties shall be conducted under the authorization of the chief of police/sheriff. The chief/sheriff shall coordinate the escort with the authority having control over the escorted vehicles. Further, the escort shall take place only per a written plan approved by the chief/sheriff.
3. Officers may provide funeral escorts with marked vehicles. The escort duty shall be conducted under the authorization of the on-duty supervisor only. Further, the escort shall take place per an articulated plan approved by the on-duty supervisor.
4. Officers shall not escort fully operational emergency vehicles. Exception: when an emergency vehicle has inoperable lights and siren, the dispatcher or the escorting officer shall order the driver of the emergency vehicle to obey all traffic control devices and to travel behind the patrol vehicle. The patrol vehicle, while using lights and siren, shall not exceed 5mph over the posted limit. Further, the patrol vehicle will not commit traffic violations during the escort. The escorting officer shall keep the dispatcher informed of the nature of the escort, the location, and destination.

### **B. Funeral escorts**

1. Before conducting a funeral escort, officers shall confer with the funeral home director to:
  - a. Plan the route to be taken to account for the most direct method, expected traffic density and anticipated obstacles.

- b. Determine the circumstances of the escort to include which traffic lanes to use, speed of travel to the destination, and how to handle adverse weather.
2. Officers shall not lead funeral processions into an intersection on a red light. Once the procession has entered an intersection on a green light, the escorting officer shall take reasonable measures to allow the entire procession to continue even though the light changes.
3. No escorts shall be provided if the body of the deceased is not in the procession.

## **IX. ROADBLOCKS AND CHECKPOINTS**

### **A. Definitions**

#### **1. Checkpoint**

A brief stop of all traffic through a designated location for a limited time to inspect drivers' licenses and vehicle registrations, and thereby increase traffic safety by apprehending or citing persons who violate licensing laws, operate unsafe vehicles, or operate a vehicle while under the influence of alcohol or drugs.

#### **2. Roadblock**

A method for stopping and apprehending a fleeing suspect involving artificial barriers such as vehicles or walls. A roadblock is considered an application of deadly force. Further, any kind of roadblock which terminates the freedom of movement of a fleeing suspect is a seizure within the Fourth Amendment meaning. See GO 2-6 and GO 2-9 for further discussion of roadblocks.

### **B. General guidelines for checkpoints**

1. All checkpoints shall be conducted pursuant to a written plan which accomplishes the following:
  - a. Describes the objective of the checkpoint.
  - b. Identifies the personnel involved.
  - c. Specifies the location of the checkpoint.
  - d. Provides adequate space for parking police vehicles out of the traffic flow.

- e. Provides adequate space for vehicles to be pulled out of the traffic flow without creating a hazard.
  - f. Specifies the dates, times for beginning and ending the checkpoint.
  - g. Identifies the traffic control devices or special uniforms or equipment required, and their use at the checkpoint.
  - h. Requires a minimum of two officers to direct traffic for the duration of the checkpoint.
- 2. Each vehicle passing through a checkpoint shall be stopped and subjected to the same inquiry or procedure as described in the plan. Vehicle stops shall be as brief as possible.
    - a. Checkpoints shall last from half an hour to three hours under most circumstances.
  - 3. Nothing in this general order prohibits one or more officers from performing selective enforcement for specific law violations such as speeding or failure to stop at a stop sign.

C. Selection criteria

- 1. The written checkpoint plan shall specify the site to be monitored. The site shall be chosen from a list compiled through recommendations of officers or supervisors. Each site on the list shall be chosen as a result of historical, articulated data.
- 2. The on-scene supervisor shall prepare a report following the checkpoint that records its location, date, exact times, the number of vehicles stopped, and the number of violations discovered. Any checkpoint shall be directly supervised by an on-scene senior officer.

D. Conduct of the checkpoint

- 1. Officers assigned to the checkpoint shall park their vehicles so they do not impede traffic flow. The vehicles should be highly visible to approaching drivers and should provide protection to stationary officers.
- 2. Traffic control and warning devices shall be placed to provide adequate warning to drivers.
- 3. Officers shall create a safe location for vehicles that require further inspection, possibly in a lane that has been temporarily shut down.

4. All officers assigned to checkpoint duty shall be in uniform and shall wear traffic vests.
5. Upon approaching a vehicle, officers shall scan the interior for weapons and contraband, advise the driver of the purpose of the stop, request driver's license and registration, and shall limit the interaction to approximately 25 seconds.
6. If the officer observes behavior that furnishes a reasonable suspicion that the driver has been drinking, the officer may ask if the driver has been drinking, how much, and when. The officer may then direct the driver to the safe location for further investigation.
7. Officers shall not stop vehicles on a discretionary basis. Every car shall be stopped unless the on-scene supervisor directs a change (i.e., every second or third vehicle stopped).

***[Note: The decision to order a driver or passenger out of a vehicle at a checkpoint may invoke constitutional protections. Consult your commonwealth's attorney for guidance.]***

E. Roadblocks

1. Given the liability and constitutional considerations, roadblocks must be reasonable. Many roadblocks observe the same procedures as checkpoints. Only the on-duty supervisor can order the formation of a roadblock. The decision to do so shall be guided by reasonableness. Reasonableness in this context involves several characteristics:
  - a. The nature and seriousness of the offense.
  - b. The probability of the roadblock's success.
  - c. Availability of alternatives to the use of a roadblock.
  - d. The location of the roadblock and the environmental conditions.
  - e. The existence of an adequate warning to the suspect and other drivers.
  - f. The danger posed by the suspect to the public.
  - g. The opportunity for the suspect to stop before colliding with the roadblock.

2. A department plan exists which outlines situations which permit the use of roadblocks. The subjects included in the department plan address the authorized methods of constructing roadblocks, the conditions of their use, the duties of participating officers and the supervisor, reporting, and the use of force. This plan is reviewed annually and updated as appropriate. The chief of police/sheriff shall provide annual training to all personnel on the contents of the plan.

## **X. SEARCH AND SEIZURE ISSUES**

### **A. Consent**

While on a traffic stop, if the officer decides to ask the driver for consent to search a part of the vehicle, probable cause is not required. Further, the officer does not need to tell the motorist that he or she is free to leave. Nevertheless, officers shall be conscious that their actions may communicate to the violator that he or she cannot leave and had no choice but to consent to the search. Avoid actions or words that might lead a reasonable motorist to believe that he or she cannot leave and has no choice but to consent. See GO 2-1 for further information.

1. The mere fact that a citizen refuses a consent search does not give probable cause to search, or a reason to detain the motorist further.